

**R E M A R K S**

Reconsideration and allowance of the application are respectfully requested.

In the Office Action of June 9, 2005, claims 1-16 were pending in the application and were rejected under 35 U.S.C. § 103(a). Those rejections, as they might apply to the claims as now amended, are respectfully traversed.

Specifically, claims 1-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fowler 1,538,393. Those rejections, as they might apply to the claims as now amended, are respectfully traversed. As pointed out in the Specification herein, one of the problems with most currently available shelving assemblies or systems is that they are designed to carry a specific load or limitation. That load specification is calculated as the load limitation for the entire shelving assembly and its respective upright support units carrying a load spread fairly uniformly along the length of the assembly. However, if a consumer wishes to support a rather heavy item, such as an electrical generator or the like, the heavy generator may collapse the assembly because of the highly concentrated load at a particular point along the length of the assembly. Applicant has designed a unique shelving system wherein the intermediate or central upright support unit(s) can be readily moved toward either end of the assembly to accommodate heavy items, such as the heavy generator.

Figure 3 of the instant application was used to show the advantages of Applicants' system. In other words, the middle or intermediate support unit 16 has been slidably moved toward the left-hand end of the assembly so that a heavy item can be supported at the left of the assembly. Lighter items can be supported by the assembly toward the right-hand end in the length direction. Independent claims 1 and 8, although originally calling for a plurality of modular upright support units, have been amended to more specifically set forth the structure of this unique system as explained in the Specification. The claims call for the plurality of upright support units to include a pair of end support units and at least one intermediate support unit between the end units. Therefore, the intermediate support unit can be selectively moved toward either end support unit to accommodate different loads along the length of the shelving.

The Fowler reference does not show nor even remotely suggest such a disclosed and claimed system. Fowler simply shows a substantially square table with four corner posts and cross rails along the four sides of the table. Fowler does not show or suggest an elongated shelving system having a major length direction and a minor width direction as claimed, contrary to the Examiner's statements. Therefore, Fowler is not really concerned with where a particular load might be placed on his substantially square structure. Most importantly, Fowler does not show or remotely suggest a pair of end support

units and at least one intermediate support unit between the end units whereby the intermediate support unit can be selectively moved toward either end support unit to accommodate different loads along the length of a shelving unit. Equally important is that Fowler does not remotely recognize the problems solved by Applicants' disclosed and claimed shelving system, much less show or suggest a solution. For years, the Federal Circuit Court of Appeals has stated that the problems solved by an applicant's disclosed and claimed structure become as integral a part of the applicant's invention as the very language of the claims, themselves.

Clearly, claims 1-10 are patentable over Fowler taken individually or in any combination with the other cited references under 35 U.S.C. §103(a).

Claims 11-16 are directed to a feature of Applicant's shelving assembly which certainly is not shown in nor remotely suggested by Fowler. Independent claim 11 calls for an upright support unit including at least one upright post having at least one generally horizontal through passage for receiving an elongated shelf-supporting rail. A generally horizontal cross brace is connected to the upright post at a point aligned with the through passage and projecting from the post generally perpendicular to the through passage. The upright post is vertically split on a line intersecting the through passage to allow the cross brace to be connected to one of the post parts by appropriate fasteners inserted through the one post part from within the open through passage.

The Fowler reference does not show nor remotely suggest this unique structural combination.

Figure 3 of Fowler probably shows the best depiction of the cross braces of the table assembly. Looking at the top cross braces, while braces 2 and 3 may extend through passages in the upright posts, braces 4 and 5 are located completely outside the posts. Braces 4 and 5 certainly are not connected to the post at points aligned with the through passages generally perpendicular to the through passages as specifically called for in claim 11. It is this positioning of the cross braces which allow the cross braces to be secured to the posts by appropriate fasteners from within the through passages, again as specifically called for in claim 11. All of the lower cross braces 6, 7, 8 and 9 of Fowler extend completely through the posts, quite contrary to Applicant's disclosed and claimed structural combination. That is why the cross braces must be notched in order to align the top surfaces of the cross braces in a common plane.

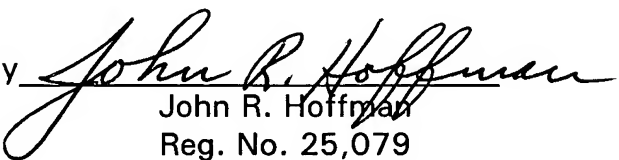
It should be understood that the structural combination of independent claim 11 is not an arbitrary assembly. The assembly is extremely user friendly. By having the upright post vertically split, simple screws can be used to connect a cross brace through the one post part with the cross brace aligned with the through passage of the upright support for the shelf-supporting rails. The other post part then is easily assembled to the one post part, again by

simple screws, to close the passages for the support rails. This makes it extremely simple to align the top surfaces of the supporting rails and the cross braces in a common plane. Undersigned counsel considers himself quite a handy carpenter, but it is extremely difficult to accurately notch wooden components as shown in Fowler to maintain the surfaces of the components in a common plane, versus the extremely simple system as set forth in independent claim 11.

Clearly, claims 11-16 are patentable over Fowler taken individually or in any combination with the other cited references under 35 U.S.C. §103(a).

In view of the foregoing, reconsideration of the application, allowance of claims 1-16 as now amended, and passing the application to issue are respectfully requested.

Respectfully submitted,

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